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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,518	12/28/2001	Andre Kudelski	16674-7	8685
41972 7590 12/09/2008 LAW OFFICES OF STUART J. FRIEDMAN 28930 RIDGE ROAD MT. AIRY, MD 21771				
EXAMINER				
IDOWU, OLUGBENGA O				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/019,518

**Applicant(s)**

KUDELSKI ET AL.

**Examiner**

OLUGBENGA O. IDOWU

**Art Unit**

2425

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/6/2008 has been entered.

### ***Response to Arguments***

In response to applicants arguments about Tamer not teaching a directly readable, intelligible descriptor message that provides immediate access to the selected program, Tamer teaches the decryptor receiving and interpreting Entitlement messages. The processed data allowing/disallowing display of data.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamer, patent number: US 6 671 881 B1 in view of Young, publication number: US 2003/0159147 A1.

As per claim 1, Tamer teaches a system for selecting and confirming an impulse purchase for pay television, the system comprising:

Means for selection by the user of a program of a particular choice of the user, the choice confirmed in the system by an entitlement management message, the message being specific to an impulse purchase (selecting programs from an EPG, col. 3, lines 30 – 59, EMM, col. 4, lines 42 – 49, 54 - 57),

Wherein the entitlement management message specific to the impulse purchase is exclusively contained in data tied to the presentation of the program listing (entitlement for specific programs, col. 4, lines 65 - 68) and which comprises a directly readable, intelligible descriptor message that provides immediate access to the selected program (smart card interpreting entitlement information to allow access to media, col. 4, lines 42 - 67).

Tamer does not teach a display device for presentation to a user a listing of programs. In an analogous art, Young teaches a display device for presentation to a user a listing of programs (display and guide, [0073- 0074], [0139]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tamer by including a system that allows available programs to be viewed on a display, as described by Young's television schedule system, for the advantages of improving system interactivity and giving the user a better idea of the available programs.

As per claim 2, the combination of Tamer and Young teach System according to Claim 1, wherein the entitlement management message is used locally in a hardware subassembly installed at the user's premises, the hardware subassembly comprising a security module in which is stored subscriber authorizations and subscriptions profile relating to the user (Tamer: smart card apparatus 31, col. 4, lines 42 – 49, Fig. 3).

As per claim 3, the combination of Tamer and Young teach System according to Claim 1, wherein the entitlement management message specific to the impulse purchase includes a notification to authorize viewing, or veto of the viewing authorization (Tamer: EMM for determining programs viewers are entitled to, col. 4, lines 54 - 57).

As per claim 4, the combination of Tamer and Young teach system according to Claim 1, wherein the entitlement management message (EMM) comprises conditions defining the authorization of viewing and conditions of cancellation of the authorization (Tamer: authorization, col. 4, line 65 - 67).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425